Types Of Educational Opportunities Discrimination

Español

The Civil Rights Division, Educational Opportunities Section enforces several federal civil rights laws which prohibit discrimination on the basis of race, color, national origin, language, sex, religion, and disability in schools and institutions of higher education. Below we describe the types of cases we address.

Race and/or National Origin Discrimination

The Civil Rights Act of 1964 is the landmark legislation prohibiting discrimination in several areas including housing, employment, and education. The sections of the Act relating to education are Title IV, which authorizes the Attorney General to address certain equal protection violations based on race, color, national origin, sex, and religion in public schools and institutions of higher education; Title VI, prohibiting discrimination by recipients of federal funds on the basis of race, color, and national origin; and Title IX, permitting the United States to intervene in pending suits alleging discrimination. Additionally, the Equal Educational Opportunities Act of 1974 prohibits, among other conduct, deliberate segregation on the basis of race, color, and national origin.

The Educational Opportunities Section is involved in numerous desegregation lawsuits against public elementary and secondary school districts (as well as one state higher education system) where we seek to ensure that state-sponsored segregation is eradicated. Additionally, each year we are involved in numerous investigations and cases addressing discrimination and harassment on the basis of race and national origin. For examples, view the cases list.

Sex-Based Discrimination

Title IV of the Civil Rights Act of 1964 authorizes the Attorney General to address certain equal protection violations based on sex, among other bases, in public schools and institutions of higher education. Additionally, Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in education programs and activities operated by recipients of federal financial assistance. Pursuant to these statutes the Educational Opportunities Section works to ensure that all persons regardless of their sex are provided equal educational opportunities. For examples, view the cases list.

Religious Discrimination

Title IV of the Civil Rights Act of 1964 authorizes the Attorney General to address certain equal protection violations based on religion, among other bases, in public schools and institutions of higher education. The Educational Opportunities Section works to ensure that all persons regardless of their religion are provided equal educational opportunities. The Section's work includes addressing discrimination and harassment on the basis of religion, and spans all religious affiliations. For examples, view the cases list.

English Language Learner students

The Section is charged with enforcing the Equal Educational Opportunities Act of 1974 (EEOA). Section 1703(f) of the EEOA requires state educational agencies (SEAs) and school districts to take action to overcome language barriers that impede English Language Learner (ELL) students from participating equally in state and district educational programs. As part of its efforts to enforce the EEOA, the Section investigates complaints that SEAs or school districts are not providing adequate services to ELL students or are failing to take appropriate action in other ways.

Although section 1703(f) of the EEOA does not require schools to adopt a particular type of language acquisition program, courts generally consider three factors to assess the adequacy of such a program:

1. whether the school's program is based upon sound educational theory or principles;
2. whether the school's program is reasonably calculated to implement the educational theory effectively; and
3. whether, after a period of time sufficient to give the program a legitimate trial, the results of the program show that language barriers are actually being overcome.

Examples of conditions that may violate the EEOA include when a school district or SEA does the following:

1. fails to provide a language acquisition program to its ELL students or fails to provide adequate language services to its ELL students;
2. fails to provide resources to implement its language acquisition program effectively (e.g., an ESL program lacks ESL teachers or ESL materials);
3. fails to take steps to identify students who are not proficient in English;
4. exits ELL students before the students acquire English proficiency from ELL services;
5. fails to communicate meaningfully with non-English-speaking or limited-English-speaking parents and guardians of ELL students by not providing such parents and guardians with written or oral translations of important notices or documents;
6. fails to provide language acquisition assistance to ELL students because they receive special education services, or fails to provide special education services to ELL students when they qualify for special education services;and
7. excludes ELL students from gifted and talented programs based on their limited English proficiency.

For examples, view the cases list

Disability Discrimination

The Educational Opportunities Section addresses disability discrimination in several ways, including through its desegregation cases and its English Language Learner (ELL) matters. For example, in the desegregation context, the Section examines if minorities are disproportionately under or over identified. In the ELL context, the Section ensures that dually identified ELL and special education students receive all services to which they are entitled.

The Americans with Disabilities Act (ADA) was enacted in 1990 to address discrimination against persons with disabilities (see also the **ADA homepage**). Title II of the ADA provides that no individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, program, or activities of a public entity, or be subjected to discrimination by any such entity. Title III of the ADA prohibits discrimination on the basis of disability in public accommodations, such as schools, operated by private entities. The Civil Rights Division has primary responsibility for enforcing Title III as it relates to education and shares responsibility for investigating Title II complaints with the Department of Education.

Section 504 of the Rehabilitation Act of 1973 prohibits the exclusion, the denial of benefits, and discrimination by reason of disability in programs or activities receiving federal funds. OCR has primary responsibility for enforcing Section 504's provisions with respect to its recipients of federal funds.

The Individuals with Disabilities in Education Act (IDEA) requires States and local education agencies to provide a free and appropriate public education to children with disabilities. The Department of Education has primary responsibility for enforcing IDEA. The Civil Rights Division gets involved in 504 cases through referrals from the other federal agencies, complaint investigations or compliance reviews of recipients of DOJ funding, and in 504 and IDEA cases through participation in pending lawsuits. For examples, view the cases list.

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